



4910-15-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2011-1146]

RIN 1625-AA08

Safety Zone; 2012 Mavericks Invitational, Half Moon Bay, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in support of the Mavericks Surf Competition. This temporary safety zone will establish a temporary safety zone in vicinity of Pillar Point in the navigable waters of Half Moon Bay, California. The regulation will temporarily restrict vessel traffic in vicinity of Pillar Point and prohibit vessels not participating in the surfing event from entering the dedicated surfing area and the hazardous waters surrounding Pillar Point. This regulation is necessary to provide for the safety of life on the navigable waters immediately prior to, during, and immediately after the surfing competition.

DATES: Effective Date: This rule is effective in the CFR from [INSERT DATE OF PUBLICATION] until 3 p.m. March 31,

2012. This rule is effective with actual notice for purposes of enforcement beginning 7 a.m. January 23, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG-2011-1146 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1146 in the "Keyword" box, and then clicking "Search." They are also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call Lieutenant Junior Grade DeCarol Davis (415) 399-7443, or e-mail

D11-PF-MarineEvents@uscg.mil. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone (202)366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity

to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the event would occur before the rulemaking process would be completed. Because of the dangers posed by the surf conditions during the 2012 Mavericks Invitational surf competition, the safety zone is necessary to provide for the safety of event participants, spectators, and other vessels transiting the event area. For the safety concerns noted, it is in the public interest to have these regulations in effect during the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Any delay in the effective date of this rule would expose mariners to the dangers posed by the surf conditions during the 2012 Mavericks Invitational.

Basis and Purpose

The 2012 Mavericks Invitational is a one day "Big Wave" surfing competition consisting of the top 24 big wave surfers and only occurs when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. The rock and reef ridges that

make up the sea floor of the Pillar Point area combined with optimal weather conditions create the large waves that Mavericks is known for. Due to the hazardous waters surrounding Pillar Point at the time of the surfing competition, the Coast Guard is establishing a safety zone in vicinity of Pillar Point that restricts navigation in the area of the surf competition and in neighboring hazardous areas.

Discussion of Rule

The Coast Guard is establishing a safety zone associated with the 2012 Mavericks Invitational surf competition. The 2012 Mavericks Invitational will take place on a day that presents favorable surf conditions between 7 a.m. Monday January 23, 2012 and 3 p.m. Saturday March 31, 2012, from. The 2012 Mavericks Invitational can only occur when 15-20 foot waves are sustained for over 24 hours and are combined with mild easterly winds of no more than 5-10 knots. Unpredictable weather patterns and the event's narrow operating window limit the Coast Guard's ability to notify the public of the event. The Coast Guard will issue notice of the event as soon as practicable, and no later than 24 hours prior via the Broadcast Notice to Mariners.

The 2012 Mavericks Invitational will occur on the navigable waters of Half Moon Bay in vicinity of Pillar

Point. The Coast Guard will enforce a temporary safety zone bounded by a line connecting the following coordinates in the order they appear: 37°29'23"N, 122°30'04"W; 37°29'15"N, 122°30'10"W; 37°29'17"N, 122°30'30"W; 37°29'36"N, 122°30'16"W; 37°29'23"N, 122°30'04"W; 37°29'36"N, 122°29'21"W; 37°29'13"N, 122°29'25"W; 37°29'15"N, 122°29'58"W; 37°29'23"N, 122°30'04"W (NAD 83).

The effect of this temporary safety zone will be to restrict navigation in the vicinity of Pillar Point while the 2012 Mavericks Invitational is taking place. During the enforcement period, unauthorized persons or vessels are prohibited from transiting through, anchoring, blocking, or loitering in the safety zone without permission of the COTP or PATCOM. Vessels desiring to enter or operate in the safety zone shall do so with COTP or PATCOM permission via VHF-23A or through the 24-hour Command Center telephone at (415)-399-3547.

This safety zone is needed to keep spectators and vessels a safe distance away from the event participants and the hazardous waters surrounding Pillar Point. Failure to comply with the lawful directions of the Coast Guard could result in additional vessel movement restrictions, citation, or both.

Regulatory Analyses

We developed this rule after considering numerous

statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review:

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under that those Orders.

Although this rule regulates navigation in the waters encompassed by the regulated area, the effect of this rule will not be significant. The entities most likely to be affected are fishing vessels and pleasure craft engaged in recreational activities. In addition, the rule will only regulate navigation for a limited time. Finally, the Public Broadcast Notice to Mariners will notify the users of local waterway to ensure that the regulated area will result in minimum impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a

significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

Although this rule may affect owners and operators of fishing vessels and pleasure craft engaged in recreational activities and sightseeing, it will not have a significant economic impact on a substantial number of small entities for several reasons: (i) this rule will encompass only a small portion of the waterway for a limited period of time; (ii) vessel traffic can pass safely around the area; (iii) vessels engaged in commercial and recreational activities have ample space outside of the affected areas of Half Moon Bay, CA to engage in these activities; and (iv) the maritime public will be advised in advance of this regulated area via Broadcast Notice to Mariners.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we offer to assist small entities in understanding the rule so

that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or

risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities

unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, which applies to regulations establishing, disestablishing, or changing Regulated Navigation Areas, safety zones or security zones.

An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add temporary §165.T11-472 to read as follows:

§165-T11-472 Safety Zone; 2012 Mavericks Invitational, Half Moon Bay, CA.

(a) Location. This safety zone is established for the waters of Half Moon Bay, California, in the vicinity of Pillar Point bounded by a line connecting the following coordinates in the order they appear written in this section: 37°29'23"N, 122°30'04"W; 37°29'15"N, 122°30'10"W; 37°29'17"N, 122°30'30"W; 37°29'36"N, 122°30'16"W; 37°29'23"N, 122°30'04"W; 37°29'36"N, 122°29'21"W;

37°29'13"N, 122°29'25"W; 37°29'15"N, 122°29'58"W;

37°29'23"N, 122°30'04"W (NAD 83).

(b) Definitions. Patrol Commander (PATCOM). As used in this section, "Patrol Commander" or "PATCOM" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer, or a Federal, State, or local officer designated by the Captain of the Port San Francisco (COTP) to assist in the enforcement of the safety zone.

(c) Enforcement period. This rule is effective during the 2012 Maverick Invitational, which will take place on a day that presents favorable surf conditions between 7 a.m. Monday January 23, 2012 and 3 p.m. Saturday March 31, 2012. The Coast Guard will issue notice of the event to the public as soon as practicable, and no later than 24 hours prior to the event via Broadcast Notice to Mariners.

(d) Regulations. (1) Under the general regulations in 33 CFR part 165, Subpart C this title, the safety zone is closed to all unauthorized vessel traffic, except as may be permitted by the COTP or PATCOM.

(2) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or PATCOM to obtain permission. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP or PATCOM. Persons or vessels may

request permission to enter the safety zone on VHF-23A or through the 24-hour Command Center telephone at (415)-399-3547.

(4) The COTP, or PATCOM as the designated representative of the COTP, may control the movement of all vessels operating on the navigable waters of Half Moon Bay when the COTP has determined that such orders are justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, and other temporary hazardous circumstances. When hailed or signaled by PATCOM, the hailed vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in additional operating restrictions, citation for failure to comply, or both.

Dated: January 23, 2012

C. L. STOWE
Captain, U.S. Coast Guard
Captain of the Port San Francisco

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